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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,823	09/07/2005	Shoji Yuyama	2005_0171A	4005

513 7590 08/28/2007  
WENDEROTH, LIND & PONACK, L.L.P.  
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SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER
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COLLINS, MICHAEL

ART UNIT	PAPER NUMBER
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3651

MAIL DATE	DELIVERY MODE
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08/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/523,823	Applicant(s) YUYAMA ET AL.	
	Examiner Michael K. Collins	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/07/05, 2/04/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7-8, 10-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Guerra et al. (USP 5,860,563).

Regarding claim 7, Guerra et al. disclose a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side; and
- a discharge member (80) disposed on one end portion of the cassette so as to be rotatable between a reception position and an extraction position, wherein
- the discharge member has:
  - a holding recess portion (102) for holding only one medicine biased by the biasing member upon rotation to the reception position and for maintaining a holding state of the held medicine so that the medicine can be extracted from outside upon rotation to the extraction position;

- and a support face (102) formed on an opposite side of the holding recess portion so as to be able to support a next medicine when the discharge member rotates to the extraction position.

Regarding claim 8, Guerra et al. disclose the medicine feeder as defined in claim 7, further comprising:

- medicine detection member (114) for detecting whether or not a medicine is present in the holding recess portion when the discharge member is positioned at the extraction position; and
- control device for allowing driving of the discharge member based on prescription data and a detection signal in the medicine detection member (see column 5 lines 32-39).

Regarding claim 10, Guerra et al. disclose the medicine feeder as defined in claim 7, wherein the discharge member has a notch (102) to facilitate holding of the medicine on opposite walls constituting the holding recess portion.

Regarding claim 11, Guerra et al. disclose a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side;
- a discharge member (80) disposed on one end portion of the cassette so as to be rotatable between a reception position and an extraction position; and
- medicine quantity detection member (114) for detecting a quantity of the medicines in the cassette; wherein

- the medicine quantity detection member having:
  - a sensor (114) for detecting a biased position by the biasing member in an initial state where medicines are not housed in the cassette; and
  - an encoder for detecting change in the biased position of medicines by the biasing member caused by housing the medicines in the cassettes from the initial state detected by the sensor.

Regarding claim 12, Guerra et al. disclose a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (172) for biasing the medicines in the cassette toward one end side;
- and a discharge member (80) disposed on one end portion of the cassette for holding a medicine in a holding recess portion and discharging the medicine one by one through rotating movement, wherein
- the discharge member comprises a rotor (98,100), and an outer circumferential face of the rotor for supporting a next medicine is formed so as not to change a position of the next medicine through rotating movement.

Regarding claim 13, Guerra et al. disclose the a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side;

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- and a discharge member (80) disposed on one end portion of the cassette for holding a medicine in a holding recess portion and discharging the medicine one by one through rotating movement, wherein
- the discharge member comprises a rotor (98,100), and
- the control device automatically returns the rotor to a standby position if a specified time is passed while the rotor is positioned at a discharge position (see column 4 lines 40-47).

Regarding claim 14, Guerra et al. disclose the a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side;
- and a discharge member (80) disposed on one end portion of the cassette for holding a medicine in a holding recess portion and discharging the medicine one by one through rotating movement, wherein
- the cassette is disposed so that housed medicines are arrayed in horizontal direction so as to be discharged one by one in sequence from one end side by the discharge member (see Figure 3).

Regarding claim 15, Guerra et al. disclose the a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side;

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- and a discharge member (80) disposed on one end portion of the cassette for holding a medicine in a holding recess portion and discharging the medicine one by one through rotating movement, wherein
- the cassette is disposed so that housed medicines are arrayed in vertical direction so as to be discharged one by one in sequence from an upper end (20) by the discharge member (see Figure 3).

Regarding claim 16, Guerra et al. disclose a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side;
- and a discharge member (80) disposed on one end portion of the cassette for holding a medicine in a holding recess portion and discharging the medicine one by one through rotating movement, wherein
- the cassette is disposed so that vials (54) containing medicines with an upper aperture closed by a lid are housed in a state of being arrayed in horizontal direction in a standing position (see Figure 3).

Regarding claim 18, Guerra et al. disclose the medicine feeder as defined in claim 8, wherein the discharge member (80) has a notch (102) to facilitate holding of the medicine on opposite walls constituting the holding recess portion.

***Claim Rejections - 35 USC § 103***

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 9, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guerra et al. (USP 5,860,563) and further in view of Aten et al. (USP 4,674,652).

Regarding claim 9, Guerra et al. disclose the medicine feeder as defined in claim 8. However, he does not disclose a lock further comprising a lock member for disabling the discharge member from rotating, wherein the control device controls the lock member so as to lock the discharge member at the reception position when discharge of a prescribed quantity of medicines based on prescription data is completed. Aten et al. disclose a lock further comprising a lock member for disabling the discharge member from rotating, wherein the control device controls the lock member so as to lock the discharge member at the reception position when discharge of a prescribed quantity of medicines based on prescription data is completed. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to



modify Guerra et al. by including a discharge member that has a lock member for preventing the rotor from rotating when the cassette is dismounted from the housing portion, as disclosed by Aten et al., for the purpose of controlling rotation of the ejector (see column 13 lines 6-9).

Regarding claim 17, Guerra et al. disclose a medicine feeder, comprising:

- a cassette (10) for housing medicines in array;
- biasing member (72) for biasing the medicines in the cassette toward one end side;
- and a discharge member (80) disposed on one end portion of the cassette for holding a medicine in a holding recess portion and discharging the medicine one by one through rotating movement, wherein
- the discharge member comprises a rotor (98,100), and the cassette is structured to be mounted on and dismounted from each housing portion of a stock shelf (12) and

However, they do not disclose a discharge member that has a lock member for preventing the rotor from rotating when the cassette is dismounted from the housing portion. Aten et al. disclose a discharge member (34) that has a lock member (58) for preventing the rotor from rotating when the cassette is dismounted from the housing portion. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the applicant's invention to modify Guerra et al. by including a discharge member that has a lock member for preventing the rotor from rotating when the cassette

is dismounted from the housing portion, as disclosed by Aten et al., for the purpose of controlling rotation of the ejector (see column 13 lines 6-9).

Regarding claim 19, Guerra et al. in view of jksdal disclose the medicine feeder as defined in claim 9. Furthermore, Guerra et al. disclose a medicine feeder wherein the discharge member has a notch (102) to facilitate holding of the medicine on opposite walls constituting the holding recess portion.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

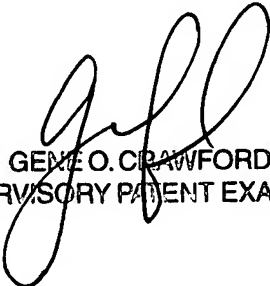
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael K. Collins whose telephone number is (571) 272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.C.  
8/24/2007

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER